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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,709	10/23/2001	Yuji Saiki	04558.057001	2960

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EXAMINER

SEFER, AHMED N

ART UNIT PAPER NUMBER

2826

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

10

Office Action Summary

Application No.

10/001,709

Applicant(s)

SAIKI ET AL

Examiner

A. Sefer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The amendment filed December 21, 2005 has been entered; no new claims have been introduced.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7, 11 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kato ("Kato") JP 61-32005 in view of Yoshimi (of record).

Kato discloses in fig. 1 a polarizing plate comprising a polarizer, wherein first portion 11 and the second portion 12 are laminated by an adhesive 16 (as in claims 2 and 18) but lacks anticipation of a first portion having a polarization degree of 99% at each wavelength of light for certain wavelengths and a second portion having a polarization degree of 99% or more at wavelength of light for different wavelengths.

Yoshimi discloses (see figs. 1-7 and computer translated document) a liquid crystal display comprising on at least one side of a liquid crystal cell or a polarizing plate 4 comprising a polarizer, the polarizer comprising: a first portion having a polarization degree of 99% at wavelength of light for wavelengths within the range recited in the claim and a second portion having a polarization degree of 99% or more at wavelength of light for wavelengths within the range recited in the claim.

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Therefore, it would have been obvious to one skilled in the art at the time the invention was made to take measurements at intervals such as every 10nm as disclosed by Yoshima, since that would provide a more accurate result. It would have been obvious to meet the limitations set by claims **19 and 20**, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

Regarding claims 4 and 5, Yoshimi discloses (see computer translated document) a polyvinyl alcohol-based adhesive or urethane-based adhesive (as in claim 5).

Regarding claim 6, Yoshimi discloses pressure-sensitive adhesive.

Regarding claim 11, Yoshimi discloses a viewing angle compensating film 1 attached to a polarizing plate.

Regarding claims 3 and 7, the specification contains no disclosure of either the critical nature of the claimed arrangement or any unexpected results arising therefrom. Where patentability is said to be based upon particular chosen dimensions or upon another variable recited in a claim, the applicant must show that the chosen dimensions are critical. In re Woodruff, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990).

4. Claims 1, 6, 7, 11, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merrill et al. ("Merrill") USPN 6,111,697 in view of Yoshimi.

Merrill discloses (fig. 1 and col. 4, lines 39-43) a polarizing plate comprising a polarizer, wherein first portion 11 and the second portion 12 are laminated but lacks anticipation of a first portion having a polarization degree of 99% at each wavelength of light for certain wavelengths

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and a second portion having a polarization degree of 99% or more at wavelength of light for different wavelengths.

Yoshimi discloses (see figs. 1-7 and computer translated document) a liquid crystal display comprising on at least one side of a liquid crystal cell or a polarizing plate 4 comprising a polarizer, the polarizer comprising: a first portion having a polarization degree of 99% at wavelength of light for wavelengths within the range recited in the claim and a second portion having a polarization degree of 99% or more at wavelength of light for wavelengths within the range recited in the claim.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to take measurements at intervals such as every 10nm as disclosed by Yoshima, since that would provide a more accurate result. It would have been obvious to meet the limitations set by claims **19 and 20**, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

Regarding claim 6, Yoshimi discloses pressure-sensitive adhesive.

Regarding claim 11, Yoshimi discloses a viewing angle compensating film 1 attached to a polarizing plate.

Regarding claim 7, the specification contains no disclosure of either the critical nature of the claimed arrangement or any unexpected results arising therefrom. Where patentability is said to be based upon particular chosen dimensions or upon another variable recited in a claim, the applicant must show that the chosen dimensions are critical. In re Woodruff, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990).

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5. Claims 8-10, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kato in view Yoshimi as applied to claim 1 above, and in further view of Ozeki et al. ("Ozeki") USPN 6,498,633 (of record).

The combined references disclose the device structure as recited in the claim, but do not specifically disclose an absorption axis.

Ozeki discloses (see col. 4, lines 52-58) a polarizing plate comprising a polarizer, the polarizer comprising two portions of a polarizer laminated so that the absorption axis are disposed in parallel to each other.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to incorporate of Ozeki's teachings since that would provide a desired wavelength dependence as taught by Ozeki.

Regarding claims 9 and 10, Ozeki discloses (see col. 7, lines 54-57) a reflector/transreflector or a retardation plate 4 (as in claim 10) attached to the polarizing plate.

Regarding claims 28 and 29, Ozeki discloses (see col. Col. 7, lines 58-62 and col. 8, lines 1-8) at least one other optical layer 4 or at least two other optical layers.

6. Claims 12, 16 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kato in view Yoshimi as applied to claim 1 above, and in further view of Kameyama et al. ("Kameyama") USPN 6,088,079 (of record).

The combined references disclose the device structure as recited in the claim, but do not specifically disclose a brightness enhancement film attached to polarizing plate.

Kameyama discloses (see abstract) a brightness enhancement film (cholesteric liquid crystal layer) attached to polarizing plate.

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Therefore, it would have been obvious to one skilled in the art at the time the invention was made to incorporate Kameyama's teachings since that would improve display brightness as taught by Kameyama.

Regarding claim 16, Kameyama discloses (see col. 15, lines 1-25) a separator. As for its function, a recitation of an intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Regarding claim 21, Kameyama discloses (see col. 11, lines 6-13) a polarizing plate transmitting a linearly polarized light having a predetermined polarization axis.

7. Claims 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kato in view Yoshimi as applied to claim 1 above, and in further view of Koike et al. ("Koike") USPN 6,654,085.

The combined references disclose the device structure as recited in the claim, but do not specifically disclose an adhesive layer exposed on a surface of the optical member.

Koike discloses in figs. 2-4 a polarizing plate comprising a polarizer 51 and adhesive layer 4/52 on an exposed surface of surface of an optical member 3/6.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to incorporate Koike's teachings since that would attain a clear display as taught by Koike.

Regarding claim 31, an adhesive temporarily being covered would exist in the final production therefore, reads to a process and "product by process" claims are directed to the product per se, no matter how actually made, In re Hirao, 190 USPQ 15 at 17 (footnote 3). See also In re Brown, 173 USPQ 685 and In re Thorpe, 227 USPQ 964, 966. Therefore, the way the product was made does not carry any patentable weight as long as the claims are directed to a device. Further, note that the applicant has the burden of proof in such cases, as the above case law makes clear. Also see MPEP 2113.

8. Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kato in view Yoshimi as applied to claim 1 above, and in further in view of Ochi et al. ("Ochi") USPN 6,094,245.

The combined references disclose the device structure as recited in the claim, but do not specifically disclose a transparent protective film.

Ochi discloses (see fig. 2 and the paragraph bridging cols. 6 and 7) a polarizing plate comprising a polarizer 31 and a transparent protective film.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to incorporate Ochi's teachings since that would prolong the life service of the polarizer as taught by Ochi.

Regarding claim 33, Ochi discloses no protective layer between first and second portions of the polarizer.

Regarding claim 34, Kato discloses first portion and a second portion being directly laminated by an adhesive, and transparent protective layer 13/14 being provided on one side or both sides of the polarizer.

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9. Claims 13, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okumura ("Okumura") JP 11-64631 in view of Yoshimi (of record).

Okumura discloses in figs. 1, 9 and 10 a liquid crystal display comprising on at least one side of a liquid crystal cell a polarizing plate comprising a polarizer, wherein first portion 101 and the second portion 102 are laminated but lacks anticipation of a first portion having a polarization degree of 99% at each wavelength of light for certain wavelengths and a second portion having a polarization degree of 99% or more at wavelength of light for different wavelengths.

Yoshimi discloses (see figs. 1-7 and computer translated document) a liquid crystal display comprising on at least one side of a liquid crystal cell or a polarizing plate 4 comprising a polarizer, the polarizer comprising: a first portion having a polarization degree of 99% at wavelength of light for wavelengths within the range recited in the claim and a second portion having a polarization degree of 99% or more at wavelength of light for wavelengths within the range recited in the claim.

Although the combined references do not specifically disclose a polarization degree at each wavelength, since Okumura and Yoshima are both from the same field of endeavor, liquid crystal display, Yoshima's teachings would have been found pertinent in Okumura's art. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to take measurements at intervals such as every 10nm as disclosed by Yoshima, since that would provide a more accurate result.

Regarding 22, Okumura discloses a polarizing plate 909 located on one side of a liquid crystal cell 907.

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Regarding 23, Okumura discloses (see abstract) a polarizing plate transmitting a linearly polarized light having a predetermined polarization axis.

10. Claims 14, 15 and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okumura in view of Kato and Yoshimi.

Okumura discloses in figs. 1, 9 and 10 a liquid crystal display comprising on at least one side of a liquid crystal cell a polarizing plate comprising a polarizer, wherein first portion 101 and the second portion 102 are laminated but lacks anticipation of a first portion having a polarization degree of 99% at each wavelength of light for certain wavelengths and a second portion having a polarization degree of 99% or more at wavelength of light for different wavelengths.

Yoshimi discloses (see figs. 1-7 and computer translated document) a liquid crystal display comprising on at least one side of a liquid crystal cell or a polarizing plate 4 comprising a polarizer, the polarizer comprising: a first portion having a polarization degree of 99% at wavelength of light for wavelengths within the range recited in the claim and a second portion having a polarization degree of 99% or more at wavelength of light for wavelengths within the range recited in the claim; and a polyvinyl alcohol-based adhesive or urethane-based adhesive or pressure-sensitive adhesive.

Kato discloses in fig. 1 a polarizing plate comprising a polarizer, wherein first portion 11 and the second portion 12 are laminated by an adhesive.

Although the combined references do not specifically disclose a polarization degree at each wavelength, since Okumura and Yoshima are both from the same field of endeavor, liquid crystal display, Yoshima's teachings would have been found pertinent in Okumura's art.

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Therefore, it would have been obvious to one skilled in the art at the time the invention was made to take measurements at intervals such as every 10nm as disclosed by Yoshima, since that would provide a more accurate result. It would have been obvious to employ an adhesive that would strengthen bonding of the polarizing plate.

Regarding claims 24 and 26, Okumura discloses a polarizing plate 909 located on one side of a liquid crystal cell 907.

Regarding claims 25 and 27, Okumura discloses (see abstract) a polarizing plate transmitting a linearly polarized light having a predetermined polarization axis.

Response to Arguments

Applicant's arguments filed 12/21/2005 have been fully considered but they are not persuasive. Applicants argue the secondary reference, Yoshima, does not disclose a polarizing film having a first portion and a second portion.

In response, Yoshima which teaches polarization degree within the range recited in the claims was relied upon to remedy the deficiency of Kato, Merrill and Okumura. Furthermore, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. Sefer whose telephone number is (571) 272-1921.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ANS

March 5, 2006